

IN THE UNITED STATES DISTRICT  
FOR THE DISTRICT OF NEW JERSEY

JOHN MCMICKLE,

Plaintiff,

v.

GLOUCESTER COUNTY SHERIFF'S  
OFFICE, et al.,

Defendants.

HONORABLE JEROME B. SIMANDLE

Civil No. 18-11847 (JBS-AMD)

**ORDER ADOPTING**  
**REPORT AND RECOMMENDATION**

This matter comes before the Court upon the Report and Recommendation of the Honorable Ann Marie Donio, U.S. Magistrate Judge entered April 5, 2019 [Docket Item 24], which recommended that Plaintiff John McMickle's Complaint be dismissed with prejudice for failure to appear for court-ordered hearings and conferences, for failure to enter his appearance pro se or obtain an attorney and have new counsel enter an appearance on his behalf, and for failure to prosecute his case; and

The parties were advised on that date that any objections to this Report and Recommendation were to be served and filed with the Clerk of Court within fourteen (14) days thereof, pursuant to Fed. R. Civ. P. 72(b) and L. Civ. R. 72.1(a)(2); and

No objections to the Report and Recommendation have been received, and the time for objections has expired; and

The Court has independently reviewed the record and the Report and Recommendation and hereby adopts it as the Opinion of this Court, adding two observations: (1) as to meritoriousness, whether or not the Complaint states a cause of action, the facts that Plaintiff's initial counsel found themselves unable to pursue it under the Rules of Professional Conduct, and that no new attorney has expressed an interest in the case, and that Plaintiff McMickle has never indicated that he seeks to pursue it pro se, should not be overlooked; these factors tilt towards failure to demonstrate plausible merit; and (2) this Court is mindful of the Court of Appeals' very recent teachings in Hildebrand v. Allegheny County, \_\_\_ F.3d \_\_\_, 2019 WL 1783540 (3d Cir. Apr. 24, 2019), reversing a district court's dismissal for failure to prosecute under Rule 41(b), Fed. R. Civ. P., due to abuse of discretion in applying the Poulis factors; the present case, including Judge Donio's thoughtful analysis and weighing of the Poulis factors with evidence derived from the record, lies well within the discretion afforded by Rule 41(b) and Poulis to dismiss a case that the Plaintiff has personally abandoned, despite numerous opportunities to appear and explain himself, each of which he ignored.

As recommended, the case will be dismissed with prejudice. Accordingly and for the reasons set forth above,

IT IS this 30th day of April, 2019 hereby

**ORDERED** that this Court hereby **ADOPTS** the Report and Recommendation of the Honorable Ann Marie Donio, U.S. Magistrate Judge entered April 5, 2019 [Docket Item 24]; and it is further

**ORDERED** that this case shall be **DISMISSED WITH PREJUDICE**.

**s/ Jerome B. Simandle**

JEROME B. SIMANDLE  
U.S. District Judge